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**REGULATION 56-CREDIT FOR REINSURANCE**

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

**NOI TO AMEND REGULATION 56**

File name

*Nicholas Lorusso*

Signature of Agency Head or Designee

**Nicholas Lorusso, Chief Deputy Commissioner**

Print Name and Title of Agency Head or Designee

**Important:** If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # \_\_\_\_\_

**ISIS AGENCY:** I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY    ORGANIZATION #    OBJECT    SUB-OBJECT    REPORTING CATEGORY

**NON-ISIS AGENCY:** I certify the availability of fiscal year 2021 appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

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Agency Name

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Baton Rouge LA 70804

City    State    Zip Code

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**NOTICE OF INTENT**  
**Department of Insurance**  
**Office of the Commissioner**  
**Regulation 56—Credit for Reinsurance**  
**(LAC 37:XIII.Chapter 35)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 56 - Credit for Reinsurance. The purpose of the amendment to Regulation 56 is to implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation (#786) which incorporates relevant provisions of the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*. These revisions provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a Reciprocal Jurisdiction as defined and established by Regulation 56. Furthermore, Regulation 56 (1) provides parameters for capital and surplus requirements; (2) provides for risk based capital requirements; (3) provides for the requirement of monetary security; (4) imposes the requirement of the filing of annual audited financial statements; (5) provides for the prompt payment of claims under the reinsurance agreement and criteria to determine compliance; (6) provides for the publication of a list of Reciprocal Jurisdictions by the Commissioner; (7) establishes eligibility requirements in order for an assuming insurer to remain on the Reciprocal Jurisdiction list; (8) establishes the requirement of the RJ-1 form for assuming insurers to obtain eligibility; (9) provides for the requirement of security if an assuming insurer is placed in rehabilitation, liquidation or conservation; and (10) serves to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions.

**Title 37**

**INSURANCE**

**Part XIII. Regulations**

**Chapter 35. Regulation 56—Credit for Reinsurance**

**§3507. Credit for Reinsurance—Accredited Reinsurers**

A. ...

1. file a properly executed Form AR-1 (§3527.B) as evidence of its submission to this state's jurisdiction and to the authority of the commissioner to examine its books and records;

2. - 4. ...

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR

**§3509. Credit for Reinsurance—Reinsurers Maintaining Trust Funds**

A. - B.4.a.ii. ...

iii. file a properly executed Form AR-1 (§3527.B) as evidence of the submission to the authority of the commissioner to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

b. ...

C.-E. ...

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to §3513 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR

**§3510. Credit for Reinsurance—Certified Reinsurers**

A. Pursuant to R.S. 22:651(E), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§3517, 3519 or 3521 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements.

1.-6. ...

B.1. – 4.g. ...

h. for certified reinsurers not domiciled in the United States, the commissioner may consider audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor;

i. – k. ...

5.a. – b. ...

6. The assuming insurer must submit a properly executed Form CR-1 (§3527.C) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7.a.-c. ...

d. annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;

e. – g. ...

8.a. – c. ...

d. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with §3515 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with §3509, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

C.1. – 4. ...

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (§3527.C) and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2.-4. ...

E. Mandatory Funding Clause. In addition to the clauses required under §3523, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1811 (July 2013), amended LR

**§3511. Credit for Reinsurance – Reciprocal Jurisdictions**

A. Pursuant to R.S. 22:651F, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction, and which meets the other requirements of this regulation.

B. A “Reciprocal Jurisdiction” is a jurisdiction, as designated by the commissioner pursuant to §3511. D, that meets one of the following:

1. A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of §3511, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

2. A United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. A qualified jurisdiction, as determined by the commissioner pursuant to R.S. 22:651E(3) and §3510.C, which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

a. Provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. Does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. Recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a Reciprocal Jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, and confirmed as set forth in §3511.C.7 according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. No less than \$250,000,000; or

b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

- i. Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000; and
- ii. A central fund containing a balance of the equivalent of at least \$250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. If the assuming insurer has its head office or is domiciled in a Reciprocal Jurisdiction as defined in §3511.B.1, the ratio specified in the applicable covered agreement;

b. If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in §3511.B.2 a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in §3511.B.3, after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (§3527.D), of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in §3511.C.2 or §3511.C.3, or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process.

i. The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner's jurisdiction.

ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§ 3517, 3519 or 3521 of this regulation. For purposes of this regulation, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in §3511.C.5.

5. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in §3511.C.6.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;

b. More than fifteen percent (15%) of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in §3511.C.2-.3.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

1. A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner's list shall include any Reciprocal Jurisdiction as defined under §3511.B.1-2, and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC Committee Process.

2. The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a Reciprocal Jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC Committee Process, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under §3511.B.1-.2. Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to R.S. 22:651 et seq.

E. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in §3511.C have been met, the commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of §3511.C.

2. When requesting that the commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (§3527.D) and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

F. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with §3515.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of §3515.

G. Before denying statement credit or imposing a requirement to post security with respect to §3511.F or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in §3511.C.;

2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. After the expiration of 90 days or less, as set out in §3511.G.2, if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this Subsection; and

4. Provide a written explanation to the assuming insurer of any of the requirements set out in this Subsection.

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR

### **§3513. Credit for Reinsurance Required by Law**

A. Pursuant to R.S. 22:651(G), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651(B), (C), (D), (E) or (F) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in §3513:

*Jurisdiction*—state, district or territory of the United States and any lawful national government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR

### **§3515. Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer**

A.1.–4. ...

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to §3515.A shall be allowed only when the requirements of §3523 and the applicable portions of §§3517, 3519 or 3521 have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR

### **§3517. Trust Agreements Qualified under §3515**

A. As used in §3517:

*Beneficiary*—the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named *beneficiary*, then the named *beneficiary* includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

*Grantor*—the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the *grantor* is the unlicensed, unaccredited assuming insurer.

*Obligations*—as used in §3517.B.11, means:

a.-d. ...

B.1.-4.c. ...

d. it shall not contain references to any other agreements or documents except as provided for in §3517.B.11-12.

5.-11.b. ...

c. where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in R.S. 22:653(B) apart from its general assets, in trust for such uses and purposes specified in §3517.B.11.a-b as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of §3515 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a.-b. ...

c. where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in §3517.B.12.a-b as may remain executory after withdrawal and for any period after the termination date.

13. ...

C.1.-2. ...

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in §3517.D.1.b.

4.-5. ...

D.1.-2.a.ii. ...

b. provide for the return of any amount withdrawn in excess of the actual amounts required for §3517.D.1.e and interest payments at a rate not in excess of the prime rate of interest on such amounts;

c. ...

i. interest at a rate different from that provided in §3517.D.2.b;

ii.-iv. ...

E.-F. ...

G. The failure of any trust agreement to specifically identify the *beneficiary* as defined in §3517.A shall not be construed to affect any actions or rights that the commissioner may take or possess pursuant to the provisions of the laws of this state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1816 (July 2013), amended LR

**§3519. Letters of Credit Qualified under §3515**

A. The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in R.S. 22:653(A). The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in §3519.H.1. As used in §3519:

*Beneficiary*—the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

B.-E. ...

F. If the letter of credit is made subject to the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)* or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of *Publication 600* or any other successor publication, occur.

G. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in §3519.A, then the following additional requirements shall be met:

1.-2. ...

H.1-b.i.c. ...

ii. where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in §3519.H.1.b.i as may remain after withdrawal and for any period after the termination date;

c. all of the provisions of §3519.H.1 shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained §3519.H.1 shall preclude the ceding insurer and assuming insurer from providing for:

a. an interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to §3519.H.1.b; or

b. the return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1818 (July 2013), amended LR

**§3521. Other Security**

A. ...

B. AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR

**§3523. Reinsurance Contract**

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of §§3505, 3507, 3509, 3510, or 3513 or otherwise in compliance with R.S. 22:651 after the adoption of this regulation unless the reinsurance agreement includes:

1. a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to R.S. 22:651(I)(2);

2. a provision pursuant to R.S. 22:651(H)(1)(a)(i) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of the alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR

**§3525. Agreements Requiring Approval**

A.-B. ...

C. In addition to the requirements of §3525.A, the commissioner may require that any reinsurance agreement must be approved, in writing, by the commissioner when the agreement is between a Louisiana domestic insurer and a nonadmitted or unauthorized assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR

**§3527. Contracts Affected**

A. ...

B. Form AR-1 ...

C. Form CR-1 ...

D. Form RJ-1

FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, \_\_\_\_\_,  
(name of officer) (title of officer)

of \_\_\_\_\_, the assuming insurer  
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in \_\_\_\_\_, in order to  
(name of state)

be considered for approval in this state, hereby certify that \_\_\_\_\_ ("Assuming Insurer");  
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.
2. Designates the Insurance Commissioner of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.
4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.
5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in Louisiana. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.
6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final United States judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with §3511.C.5, if requested by the commissioner.

Dated: \_\_\_\_\_

(name of assuming insurer)

BY: \_\_\_\_\_

(name of officer)

\_\_\_\_\_  
(title of officer)

E. Form CR-F ...

F. Form CR-S ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1820 (July 2013), amended LR

#### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### **Fiscal and Economic Impact Statement**

1. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation. These amendments incorporate relevant provisions of the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures regarding insurance and reinsurance. These provisions will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction as defined in this regulation.

2. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule changes will have no impact on state or local governmental revenues.

3. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule changes will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction as defined and established by this regulation.

4. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

#### **Public Comments**

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 12, 2021.

James J. Donelon  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person  
Preparing  
Statement: Anita R. Robert Department: Louisiana Department  
of Insurance

Phone: (225) 219-0609 Office: Management & Finance

Return Address: P. O. Box 94214 Rule Title: Credit for Reinsurance  
Baton Rouge, LA  
70804-9214 Effective Date: Upon Publication

**SUMMARY**

(Use Complete Sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation. These amendments incorporate relevant provisions of the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures regarding insurance and reinsurance. These provisions will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction as defined in this regulation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule changes will have no impact on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)**

The proposed rule changes will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction as defined and established by this regulation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)**

The proposed rule changes will have no impact upon competition and employment in the state.



Denise Gardner, Chief of Staff  
La. Department of Insurance

6/8/21

Date of Signature



Legislative Fiscal Officer or Designee

6/8/21

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation. These amendments incorporate relevant provisions of the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures regarding insurance and reinsurance. These provisions will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a Reciprocal Jurisdiction as defined in this regulation.

The regulation also provides the following:

- Provides parameters for capital and surplus requirements
- Provides for risk-based capital requirements
- Provides for the requirement of monetary security
- Imposes the requirement of the filing of annual audited financial statements
- Provides for the prompt payment of claims under the reinsurance agreement and criteria to determine compliance
- Provides for the publication of a list of Reciprocal Jurisdictions by the Commissioner
- Establishes eligibility requirements in order for an assuming insurer to remain on the Reciprocal Jurisdiction list
- Establishes the requirement of the RJ-1 Form for assuming insurers to obtain eligibility
- Provides for the requirement of security if an assuming insurer is placed in rehabilitation, liquidation, or conservation
- Serves to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Louisiana Department of Insurance (LDI) is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The proposed rule changes implement the amendments to the NAIC Credit for Reinsurance Model Regulation.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:

- (1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and source of funding.

No increase in expenditure of funds is anticipated as a result of the proposed rule changes.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

\_\_\_\_ Yes. If yes, provide documentation.

\_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

LDI does not anticipate any implementation costs (savings) as a result the proposed rule change.

COSTS	FY 21	FY 22	FY 23
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1" above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule changes will have no impact on state or local governmental revenues.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 21	FY 22	FY 23
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funding is necessary as a result of the proposed rule changes.

B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no impact on local governmental units as a result of the proposed rule changes.

2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET  
(Continued)

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rule changes will have no impact on state or local governmental revenues.

REVENUE INCREASE/DECREASE	FY 21	FY 22	FY 23
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
TOTAL	0	0	0

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions and methods used in calculating these increases or decreases.

The proposed rule changes will have no impact on state or local governmental revenues.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS**

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.

The proposed rule changes will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a Reciprocal Jurisdiction as defined and established by this regulation.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule change is not anticipated to have an impact on receipts or income of directly affected persons, small businesses, or non-governmental groups.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule changes will have no impact upon competition and employment in the state.